

Executive, to have access to records or materials held by the Executive, or to issue subpoenas for documents or testimony from the Executive.

However, congressional investigations sustain and vindicate our role in our constitutional scheme of separated powers. The rich history of congressional investigations from the failed St. Clair expedition in 1792 through Teapot Dome, Watergate, and Iran-Contra, has established, in law and practice, the nature and contours of congressional prerogatives necessary to maintain the integrity of the legislative role. Numerous Supreme Court precedents recognize a broad and encompassing power in this body to engage in oversight and investigation that would reach all sources of information necessary for carrying out its legislative function. Without a countervailing constitutional privilege or this body self-imposing a statutory restriction on our authority, this chamber, along with our colleagues in the Senate, have plenary power to compel information needed to discharge our legislative functions from the Executive, private individuals, and companies.

In *McGrain v. Daugherty*, 1927, the U.S. Supreme Court deemed the power of inquiry, with the accompanying process to enforce it, "an essential and appropriate auxiliary to the legislative function." Senate Rule XXVI, 26, and House Rule XI, 11, presently empower all standing committees and subcommittees to require the attendance and testimony of witnesses and the production of documents. This chamber was given an implied power of oversight by the U.S. Constitution; that power has supported by our 3rd branch of government, the Supreme Court; we ourselves have expressed this authority in our Senate and House Rules, and yet two attorneys under the direction of the White House continue to tell us we do not have the proper authority.

H.R. 5230, CONTEMPT OF THE HOUSE OF REPRESENTATIVES SUBPOENA AUTHORITY ACT OF 2008 [110TH]

On February 6, I introduced legislation that would amend Title 28, of the United States Code and grant this chamber the statutory authority to bring a civil action to enforce and secure a declaratory judgment to prevent a threatened refusal or failure to comply with any subpoena or order for the production of documents, the answering of any deposition or interrogatory, or the securing of testimony issued by the House or any of its committees or subcommittees.

Once we pass H.R. 5230, we should have no further need to adopt resolutions for authorization to enforce certain subpoenas; we would already hold that statutory authority. As it stands now, we must collectively support both H. Res. 979 and H. Res. 980 under H. Res. 982, the adopted rule. Therefore, I urge my colleagues to join me in supporting H. Res. 982 an important piece of legislation that allows for not only accountability but enforcement.

Mr. LINCOLN DIAZ-BALART of Florida. I would ask the distinguished chairwoman if she has no other speakers, obviously besides herself.

Ms. SLAUGHTER. That's correct, if the gentleman is prepared to close.

Mr. LINCOLN DIAZ-BALART of Florida. Actually I will yield myself 2 minutes at this time.

The actions of the majority today are unprecedented. We have checked with

the House Parliamentarian, and they are absolutely and totally unprecedented, that privileged resolutions would be taken to the floor in this fashion, in effect, avoiding even the floor by virtue of the fact that when the rule is passed, the rule that we are debating, automatically the two privileged resolutions of contempt will be considered adopted. That is absolutely unprecedented as well as uncalled for.

And the nature of the actions of the majority today are most, most unfortunate. I had the recent opportunity to speak at Florida International University's law school. Professor Levitt asked me to speak there about the rule of law. In studying, restudying the issue, the rule of law, I stressed how the independence of the judiciary is perhaps the key, or certainly one of the fundamental keys, to the rule of law. And judicial restraint has permitted the judiciary to remain independent throughout these two-plus centuries. All of the branches, Madam Speaker, must exercise restraint.

And the actions of the majority today manifest the opposite, not only restraint, but I would say unprecedented, uncalled for, an unprecedented and uncalled for manner of dealing with even an issue of this importance.

As I stated, the majority is not even allowing debate on the resolutions of contempt, not even permitting votes on the resolutions of contempt.

The SPEAKER pro tempore. The time of the gentleman has expired.

MOTION TO ADJOURN

Mr. LINCOLN DIAZ-BALART of Florida. Madam Speaker, I move that the House do now adjourn.

The SPEAKER pro tempore. The question is on the motion to adjourn.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Mr. LINCOLN DIAZ-BALART of Florida. Madam Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 2, nays 400, not voting 26, as follows:

[Roll No. 59]

YEAS—2

Johnson (IL)

Young (AK)

NAYS—400

Abercrombie
Aderholt
Akin
Alexander
Allen
Altmire
Andrews
Arcuri
Baca
Bachmann
Bachus
Baird
Baldwin

Barrett (SC)
Barrow
Bartlett (MD)
Barton (TX)
Bean
Becerra
Berkley
Berman
Berry
Biggert
Bilbray
Bilirakis
Bishop (GA)

Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehner
Bonner
Bono Mack
Boozman
Boren
Boswell
Boucher
Boustany

Boyd (FL)
Boyda (KS)
Brady (PA)
Brady (TX)
Braley (IA)
Broun (GA)
Brown (SC)
Brown-Waite,
Ginny
Buchanan
Burgess
Burton (IN)
Butterfield
Buyer
Calvert
Camp (MI)
Campbell (CA)
Cannon
Cantor
Capito
Capps
Capuano
Cardoza
Carnahan
Carney
Carter
Castle
Castor
Chabot
Chandler
Clarke
Clay
Cleaver
Clyburn
Coble
Cohen
Cole (OK)
Conaway
Conyers
Cooper
Costello
Courtney
Cramer
Crenshaw
Crowley
Cubin
Cuellar
Culberson
Cummings
Davis (AL)
Davis (CA)
Davis (IL)
Davis (KY)
Davis, David
Davis, Lincoln
Davis, Tom
Deal (GA)
DeFazio
Delahunt
DeLauro
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Dingell
Doggett
Donnelly
Doolittle
Doyle
Drake
Dreier
Duncan
Ehlers
Ellison
Ellsworth
Emanuel
Emerson
Eshoo
Etheridge
Everett
Fallin
Farr
Fattah
Feeney
Ferguson
Filner
Flake
Forbes
Fortenberry
Fossella
Foxy
Frank (MA)
Franks (AZ)
Gallegly
Garrett (NJ)
Gerlach
Giffords
Gilchrest
Gillibrand
Gingrey

Gohmert
Gonzalez
Goode
Goodlatte
Gordon
Granger
Graves
Green, Al
Grijalva
Gutierrez
Hall (NY)
Hall (TX)
Hare
Harman
Hastings (FL)
Hastings (WA)
Hayes
Heller
Hensarling
Herger
Hersteth Sandlin
Higgins
Hinojosa
Hirono
Hobson
Hodes
Hoekstra
Holden
Holt
Hoolley
Hoyer
Hulshof
Inglis (SC)
Inslee
Israel
Issa
Jackson (IL)
Jackson-Lee
(TX)
Jefferson
Johnson (GA)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jordan
Kagen
Kanjorski
Kaptur
Keller
Kennedy
Kildee
Kind
King (IA)
King (NY)
Kingston
Kirk
Klein (FL)
Kline (MN)
Knollenberg
Kucinich
Kuhl (NY)
LaHood
Lamborn
Lampson
Langevin
Larsen (WA)
Larson (CT)
Latham
LaTourette
Latta
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Loebsock
Lofgren, Zoe
Lucas
Lungren, Daniel
E.
Lynch
Mack
Maloney (NY)
Manzullo
Marchant
Marshall
Matheson
Matsui
McCarthy (CA)
McCarthy (NY)
McCaul (TX)
McCollum (MN)
McCotter
McCrery
McDermott
McGovern

McHenry
McHugh
McIntyre
McKeon
McMorris
Rodgers
McNerney
McNulty
Meek (FL)
Meeks (NY)
Melancon
Mica
Michaud
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Miller, George
Mitchell
Mollohan
Moore (KS)
Moore (WI)
Moran (KS)
Moran (VA)
Murphy (CT)
Murphy, Patrick
Murphy, Tim
Murtha
Musgrave
Myrick
Nadler
Napolitano
Neal (MA)
Neugebauer
Nunes
Oberstar
Obey
Olver
Ortiz
Pallone
Pascarell
Pastor
Paul
Payne
Pearce
Pence
Perlmutter
Peterson (MN)
Petri
Pickering
Pitts
Platts
Poe
Pomeroy
Porter
Price (GA)
Price (NC)
Pryce (OH)
Putnam
Badanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Reichert
Reyes
Reynolds
Richardson
Rodriguez
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Roskam
Ross
Rothman
Roybal-Allard
Royce
Rush
Ryan (OH)
Ryan (WI)
Salazar
Sali
Sanchez, Linda
T.
Sanchez, Loretta
Sarbanes
Saxton
Schakowsky
Schiff
Schmidt
Schwartz
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Sessions

Sestak	Sutton	Wasserman
Shadegg	Tancredo	Schultz
Shays	Tanner	Waters
Shea-Porter	Tauscher	Watson
Sherman	Taylor	Watt
Shimkus	Terry	Waxman
Shuler	Thompson (CA)	Weiner
Shuster	Thompson (MS)	Welch (VT)
Simpson	Thornberry	Weldon (FL)
Sires	Tiahrt	Weller
Skelton	Tiberi	Westmoreland
Slaughter	Tsongas	Wexler
Smith (NE)	Turner	Whitfield (KY)
Smith (NJ)	Udall (CO)	Wilson (NM)
Smith (TX)	Udall (NM)	Wilson (OH)
Smith (WA)	Upton	Wilson (SC)
Snyder	Van Hollen	Wittman (VA)
Souder	Velázquez	Wolf
Space	Visclosky	Woolsey
Spratt	Walberg	Wu
Stark	Walden (OR)	Wynn
Stearns	Walsh (NY)	Yarmuth
Stupak	Walz (MN)	
Sullivan	Wamp	

NOT VOTING—26

Ackerman	Green, Gene	Markey
Brown, Corrine	Hill	Peterson (PA)
Costa	Hinchee	Renzi
DeGette	Honda	Ruppersberger
Dicks	Hunter	Solis
Edwards	Jones (OH)	Tierney
Engel	Kilpatrick	Towns
English (PA)	Lowe	Young (FL)
Frelinghuysen	Mahoney (FL)	

□ 1340

Mr. MCHUGH, Ms. MCCOLLUM of Minnesota, Messrs. LINCOLN DAVIS of Tennessee, HIGGINS, SESTAK, Mrs. MUSGRAVE, Mr. RUSH, and Ms. BERKLEY changed their vote from “yea” to “nay.”

So the motion to adjourn was rejected.

The result of the vote was announced as above recorded.

Stated against:

Mr. GENE GREEN of Texas. Madam Speaker, on rollcall No. 59, had I been present, I would have voted “nay.”

Ms. SOLIS. Madam Speaker, during rollcall vote No. 59, on the motion to adjourn, I was unavoidably detained. Had I been present, I would have voted “nay.”

The SPEAKER pro tempore. The gentleman from Florida has 2 minutes remaining; the gentlewoman from New York has 3½ minutes remaining.

Ms. SLAUGHTER. I reserve the balance of my time.

Mr. LINCOLN DIAZ-BALART of Florida. I yield the balance of our time to the distinguished minority leader, the gentleman from Ohio.

Mr. BOEHNER. Madam Speaker and my colleagues, many of you have heard me say on numerous occasions that I think the American people sent us here to work together to get things done on behalf of our country.

Over the last couple of weeks, we have had an opportunity with the economic growth package to work in a bipartisan way on behalf of the American people, and I really think it showed our Chamber and our Congress at its best. But I don't think there is any priority that we have that is more important than protecting the American people.

For more than 6 months, we have reached out to the majority on the Foreign Intelligence Surveillance Act because we want to give our intelligence officials all the tools they need to protect us. That bill that was passed

in late July expired on February 1, and several weeks ago we provided an extension that runs out on Saturday. But for the last 6 months, as we have tried to come to an agreement on this bill, we have reached out to the majority, trying to find common ground, and we have been turned down at every turn.

This week, the President, the Senate, and, frankly, a majority of the Members of this House have said enough is enough, no more extensions. But instead of working with the Republicans and Democrats who are interested in working on this bill that would protect our country and protect the American people by passing the bipartisan Senate Foreign Intelligence Surveillance bill, the House floor is the scene of a partisan political stunt.

Yesterday, the majority leader said that this political stunt would occur today because we have space on the House schedule. In other words, we have space on the calendar today for a politically charged fishing expedition, but no space for a bill that would protect the American people from terrorists who want to kill us.

□ 1345

Madam Speaker, I think this is the height of irresponsibility. It is an insult to this House, and it is an insult to the American people. The actions on the floor of this House today will not make America safer. It will not help us protect Americans from being attacked.

Earlier today, the President announced that he would delay his trip to Africa, a long-planned trip. He would delay it so he could work with us to sign the long-term Foreign Intelligence Surveillance Act modernization law into law. House Republicans stand ready to stay here as long as it takes to get this bill passed and get it to the President's desk.

Ladies and gentlemen, we will not stand here and watch this floor be abused for pure political grandstanding at the expense of our national security. We will not stand for this, and we will not stay for this. I would ask my House Republican colleagues and those who believe that we should be here protecting the American people not vote on this bill; let's just get up and leave.

Ms. SLAUGHTER. Madam Speaker, this is an interesting turn of events. They are apparently attaching no importance whatsoever to the Constitution of the United States. But that has not always been the case. I want to read to you a little from the debate in 1998 when Mr. BOEHNER speaks.

Mr. BOEHNER says: “Mr. Speaker, it is time for the stonewall tactics to end and the cooperating to begin. Whether it is stalling on basic requests for information or invoking executive privilege, the result is the same: the American people are denied the right to know what is going on inside their White House. In the end, Mr. Speaker, this is what this fight is about, the American people's right to know what happens in their government.

“The government does not belong to politicians in Washington, D.C. This government belongs to the American people, and they have a right to know what happens in Washington, D.C. They have a right to know what is going on in their White House.”

I concur completely with Mr. BOEHNER on that statement. I want neither Republican nor Democrat President to stonewall the House of Representatives or Congress.

Madam Speaker, I yield 1 minute to the majority leader, the gentleman from Maryland (Mr. HOYER).

Mr. HOYER. Madam Speaker, I thank the gentlelady for yielding.

The debates we have been having over the past few days are consequential and about the most important thing that this body does, and that is uphold the law. Not just pass the law, uphold the law.

As I said a little earlier in this debate, part of that was overseeing the executive branch to ensure that they execute our laws appropriately and legally. And the Congress has been given under the Constitution the authority to seek information. The Judiciary Committee has sought information and that information has not been forthcoming. The Congress, as Mr. BOEHNER said, cannot do its job if the Congress simply fails to assert its constitutional role.

Now there is a situation that we confront that a large number say they want to adjourn. They have been making motion after motion after motion to adjourn and they haven't been voting for it, but they have been making it.

And now they walk off the floor on the assertion that we are not working. They assert that we are not passing the Foreign Intelligence Surveillance Act. They assert that, but they all voted to a person not to give us the time to perform our extraordinarily important duties in resolving the differences between the Senate and the House in a conference committee.

Now, I will tell my friends on the Republican side of the House, they know as well as I do that the reason the Senate did not pass us a bill 3 months after we passed our bill to them was because of Republican delay in the United States Senate. That's the reason this bill is so late getting to us. That is the reason we don't have the time to work it out. That is the reason we are not passing legislation.

Now, the President asserts that the expiration of the Protect America Act will pose a danger to our country. The former National Security Council Adviser on Terrorism says that is not true. Former Assistant Attorney General Wainstein says that is not true. Numerous others, and the chairman, have asserted that is not true. Why is it not true? Because FISA will remain in effect.

The authority given under the Protect America Act remains in effect. And if there are new targets, a FISA

Court has full authority to give every authority to the administration to act.

So I tell my friends, we are pursuing the politics of fear, unfounded fear; 435 Members of this House, and every one of us, every one of us, wants to keep America and Americans safe. Not one of us wants to subject America or Americans to danger.

The President's assertion is wrong. I say it categorically: the President's assertion is wrong. Now the President says he will delay his trip to stay here and work with us. I know Mr. REYES and Mr. CONYERS will be contacting Mr. ROCKEFELLER and Mr. LEAHY to discuss with them how we might move forward. They in turn will talk with their Republican counterparts, as well, to see how we can move forward.

But the time that we asked for, less than 24 hours after the Senate passed us a bill, the time we asked for to elect this process, which is the normal legislative process to bring the Senate and the House together to fashion a bill that both Houses feel comfortable with, feel is good for America, was denied to us yesterday by unanimous vote by the minority party and gave us no time to accomplish that objective.

The President said he was going to veto it, which is why I presume all of you voted against it, because, of course, in the first 6 years, we never passed anything to the President that he wasn't supportive of. We were a very cooperative Congress with this President. This President is not used to the Congress saying, We may have a different view, Mr. President. We, too, have a responsibility and we may see it slightly differently than you.

But, yes, as the leader on the other side said, we have come together. We worked together. We passed a stimulus package together. We can do that on this bill. But we can't do it overnight. This matter is much too serious to do it overnight.

My friend from the Rules Committee indicates that this does not give us full time for debate on this rule. He opposes this rule. The interesting thing is he says contrary, we ought to be considering something overnight, overnight, without any time to consider it in conference.

The minority has now effected a strategy that they tried to use on the agriculture bill: let's work, but by the way, we are leaving. And why are we leaving? We are leaving so we can preclude a majority responding to a quorum call and if a majority does not respond, we will have to go out of session. So it is somewhat ironic that on the one hand they say we ought to be doing something, and on the other hand they walk out to preclude us from doing our business.

Mr. DREIER. Madam Speaker, will the gentleman yield?

Mr. HOYER. I yield to the gentleman from California.

Mr. DREIER. Madam Speaker, I simply rise to say that my very good friend, the distinguished gentleman

from Maryland, is incorrect when he said that we are asking for a measure to be considered overnight. On Tuesday of this week, this measure was sent to this House. We have had an opportunity, as we have looked at the issue of FISA modernization since July of this past year to get it done, and there is an urgency at this moment. So it has not been overnight.

I thank the gentleman for yielding.

Mr. HOYER. I thank the gentleman for his comment. There is no urgency. That claim is a claim made to stamper this House and the American people, I tell my friend from California. And the reason that there is no urgency is because in 1978 this Congress passed legislation to ensure the fact that we could intercept communications while at the same time protecting our Constitution. That is why there is no urgency.

Is there an important reason to act? There is. Do we have every intention of acting? We do. But we will not be presented with a bill on Tuesday night and be asked to pass it on Wednesday afternoon without full and fair consideration. That is our duty, that is our responsibility, and that is what we will do.

The SPEAKER pro tempore. The gentleman from New York is recognized for 1 minute.

Ms. SLAUGHTER. Madam Speaker, I began my speech today by saying we must not always live our lives hoping simply to land on a safe square. Some votes may be tough. This one isn't. The first thing we do when we enter this Congress is swear to uphold the Constitution of the United States. That is what we are asking you to do today on both sides of the aisle. For some of our friends, it is obviously easier for them to pass; they would rather not vote on this. But for the rest of us, let us stand up to our duty, why we were sent here, and reassert that the Congress of the United States is a co-equal branch, and vote "yes" on this.

Mr. NADLER. Madam Speaker, I rise today in support of the contempt resolutions. Unfortunately, these resolutions are necessary for Congress to meet its Constitutional obligations and conduct oversight and investigations. We provided many opportunities for the administration to avoid this situation. But here we are.

We are here today to consider issuing contempt citations for former White House Counsel Harriet Miers and White House Chief of Staff Josh Bolten for their failure even to appear in response to valid subpoenas issued in our investigation of the firings of a number of United States Attorneys and related matters concerning the politicization of the Justice Department. We issued these subpoenas only after repeated unsuccessful attempts to secure their cooperation voluntarily.

It is one thing to assert a legal privilege; but no one has a legal right simply to refuse to appear at all.

This investigation seeks answers to ensure that the American people can trust the Justice Department to be guided by the law and not by political obligations or pressures.

This resolution is about the rule of law. We are taught about a system of checks and bal-

ances to prevent abuses, but this Executive has shown that it thinks the rules do not apply to it. This sets a dangerous precedent for our democracy. Our system of government works only when each branch respects the authority and role of the others, and follows the rule of law.

For the sake of our democracy, for the sake of the rule of law, and for the sake of our Constitution, I urge my colleagues to support the resolutions.

Ms. HERSETH SANDLIN. Madam Speaker, I plan to vote in favor of this resolution—first and foremost—because of the essential importance of maintaining the constitutional role of the Congress as a coequal branch of government with the executive. However, the partisan division over this resolution is highly regrettable and serves to obscure the vital principles at stake.

As my colleagues are well aware, the House Judiciary Committee has initiated an inquiry into the unusual firing of several U.S. Attorneys. The impartial administration of federal law around the nation depends upon the integrity of the U.S. Department of Justice and the U.S. Attorneys. The decisions of the department and the officials who implement its vast legal authority should be free of even the appearance of impropriety, and free of politics. This is true under any administration, regardless of party.

The importance of the committee's inquiry into this matter is clear. In order to secure the facts necessary to make an informed judgment regarding the propriety of those firings, the committee first sought the voluntary cooperation of the administration in producing all of the information the committee needed to form a fair assessment. When that cooperation was not forthcoming, subpoenas were duly issued to Chief of Staff Joshua Bolten and former White House counsel Harriet Miers. On the basis of an assertion of executive privilege, neither complied with the subpoenas. In the face of the White House's inflexibility and refusal to cooperate, the committee ultimately voted to approve a contempt citation and bring the matter before the House.

I still believe that focusing on civil proceedings as a way to resolve the dispute could have garnered bipartisan support, and thereby avoided much of the partisan division we have witnessed regarding this resolution. However, that is not the choice before the House today. We must choose between recognizing and supporting the constitutional role of Congress, or allowing the administration to direct officials and former officials to ignore an important inquiry under way in the House.

At this crucial moment in our nation's history, it's more important than ever to maintain the balance of powers between the federal government's executive and legislative branches. That balance was carefully designed by the Founders, and we have consistently seen through the years the wisdom of that arrangement. Over the last several years, we witnessed first-hand the unfortunate and regrettable consequences when that balance was disturbed, and Congress failed to carry out its oversight responsibilities. The American people deserve better.

Thus, I cast my vote today not only to support the centuries-old role of the House under the Constitution, but for greater transparency, greater accountability, and to ensure the fair administration of federal law. Once the facts

are known, the House can make an informed judgment about what course of action is best. Until we learn what the administration knows, but isn't willing to share with the Congress, we cannot form a final judgment in this matter.

Mr. UDALL of Colorado. Madam Speaker, I regret that it is necessary for the House to consider this matter today, but I will support the resolution because I have concluded that the Bush administration has made it necessary to do so. When this is disposed of, I hope we can promptly return to the pressing needs of the American people that Congress needs to address.

Last year, the Judiciary Committee began reviewing the actions of the administration related to the firings of a number of U.S. Attorneys and allegations that this was part of a pattern of improper politicization of the Justice Department.

After failing to get requested information voluntarily, the Committee served subpoenas on then-White House Counsel Harriet Miers and Chief of Staff Josh Bolten. The president then invoked executive privilege and Ms. Miers and Mr. Bolten, despite the subpoenas, refused to appear before the Committee. In response, the Judiciary Committee approved a resolution citing them both for contempt of the Congress.

I am not a lawyer and certainly not an expert on questions of executive privilege. But it seems clear to me that the administration has refused to negotiate in good faith to resolve this matter, offering only to allow some interviews under severe restrictions, including a bar to keeping of transcripts.

This is not the first time Congress has sought information from a president's advisors. The Congressional Research Service reports there have been 74 instances since World War II where even sitting White House advisors, including White House counsel, have testified before Congress, including 17 between 1996 and 2001. But I am not aware of any instance in which executive privilege has been invoked as a reason why a former advisor—such as Ms. Miers—will not even make an appearance before a Congressional committee in response to a subpoena.

And I am not persuaded by the administration's explanations about why it refused to allow Ms. Miers and Mr. Bolten to even appear, let alone to testify. For example, we have been assured that the President was not involved in the decision to fire the U.S. Attorneys. But if that is true, how can executive privilege, which is intended to assure that a president will receive candid advice, apply to this matter?

After reviewing the history of this matter, I find myself in agreement with someone who is both a lawyer and a distinguished former Member of Congress—Mickey Edwards, who during his service here as a Representative from Oklahoma chaired the Republican Policy Committee.

Commenting on this matter, he has written, "If Congressional leaders are not able to persuade the administration to reverse its position and allow Ms. Miers to testify and Mr. Bolten to produce documents, then all Members of Congress, regardless of party, should insist that the subpoenas be enforced promptly and vigorously and to use civil litigation if, as the White House has hinted, it prohibits the D.C. U.S. Attorney from performing his enforcement duties."

I agree, and because that is exactly the purpose of this resolution, I will vote for it.

The material previously referred to by Mr. LINCOLN DIAZ-BALART of Florida is as follows:

AMENDMENT TO H. RES. 982 OFFERED BY MR. LINCOLN DIAZ-BALART OF FLORIDA

Strike all after the resolved clause and insert the following:

"That upon adoption of this resolution, before consideration of any order of business other than one motion that the House adjourn, the bill (H.R. 3773) to amend the Foreign Intelligence Surveillance Act of 1978 to establish a procedure for authorizing certain acquisitions of foreign intelligence, and for other purposes, with Senate amendment thereto, shall be considered to have been taken from the Speaker's table. A motion that the House concur in the Senate amendment shall be considered as pending in the House without intervention of any point of order. The Senate amendment and the motion shall be considered as read. The motion shall be debatable for one hour equally divided and controlled by the Majority Leader and the Minority Leader or their designees. The previous question shall be considered as ordered on the motion to final adoption without intervening motion.

(The information contained herein was provided by Democratic Minority on multiple occasions throughout the 109th Congress.)

THE VOTE ON THE PREVIOUS QUESTION: WHAT IT REALLY MEANS

This vote, the vote on whether to order the previous question on a special rule, is not merely a procedural vote. A vote against ordering the previous question is a vote against the Democratic majority agenda and a vote to allow the opposition, at least for the moment, to offer an alternative plan. It is a vote about what the House should be debating.

Mr. Clarence Cannon's Precedents of the House of Representatives, (VI, 308-311) describes the vote on the previous question on the rule as "a motion to direct or control the consideration of the subject before the House being made by the Member in charge." To defeat the previous question is to give the opposition a chance to decide the subject before the House. Cannon cites the Speaker's ruling of January 13, 1920, to the effect that "the refusal of the House to sustain the demand for the previous question passes the control of the resolution to the opposition" in order to offer an amendment. On March 15, 1909, a member of the majority party offered a rule resolution. The House defeated the previous question and a member of the opposition rose to a parliamentary inquiry, asking who was entitled to recognition. Speaker Joseph G. Cannon (R-Illinois) said: "The previous question having been refused, the gentleman from New York, Mr. Fitzgerald, who had asked the gentleman to yield to him for an amendment, is entitled to the first recognition."

Because the vote today may look bad for the Democratic majority they will say "the vote on the previous question is simply a vote on whether to proceed to an immediate vote on adopting the resolution . . . [and] has no substantive legislative or policy implications whatsoever." But that is not what they have always said. Listen to the definition of the previous question used in the Floor Procedures Manual published by the Rules Committee in the 109th Congress, (page 56). Here's how the Rules Committee described the rule using information from Congressional Quarterly's "American Congressional Dictionary": "If the previous question is defeated, control of debate shifts to the leading opposition member (usually

the minority Floor Manager) who then manages an hour of debate and may offer a germane amendment to the pending business."

Deschler's Procedure in the U.S. House of Representatives, the subchapter titled "Amending Special Rules" states: "a refusal to order the previous question on such a rule [a special rule reported from the Committee on Rules] opens the resolution to amendment and further debate." (Chapter 21, section 21.2) Section 21.3 continues: Upon rejection of the motion for the previous question on a resolution reported from the Committee on Rules, control shifts to the Member leading the opposition to the previous question, who may offer a proper amendment or motion and who controls the time for debate thereon."

Clearly, the vote on the previous question on a rule does have substantive policy implications. It is one of the only available tools for those who oppose the Democratic majority's agenda and allows those with alternative views the opportunity to offer an alternative plan.

Ms. SLAUGHTER. Madam Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. LINCOLN DIAZ-BALART of Florida. Madam Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 223, noes 32, answered "present" 1, not voting 173, as follows:

[Roll No. 60]

AYES—223

Abercrombie	Cramer	Hinchey
Allen	Crowley	Hinojosa
Altmire	Cummings	Hirono
Andrews	Davis (AL)	Hodes
Arcuri	Davis (CA)	Holden
Baca	Davis (IL)	Holt
Baird	Davis, Lincoln	Hooley
Baldwin	DeFazio	Hoyer
Barrow	DeGette	Insee
Bean	Delahunt	Israel
Becerra	DeLauro	Jackson (IL)
Berkley	Dicks	Jackson-Lee
Berman	Dingell	(TX)
Berry	Doggett	Jefferson
Bishop (GA)	Donnelly	Johnson (GA)
Bishop (NY)	Doyle	Johnson, E. B.
Blumenauer	Edwards	Jones (NC)
Boren	Ellison	Kagen
Boswell	Ellsworth	Kanjorski
Boucher	Emanuel	Kaptur
Boyd (FL)	Eshoo	Kennedy
Boyda (KS)	Etheridge	Kildee
Brady (PA)	Farr	Kilpatrick
Braley (IA)	Fattah	Kind
Butterfield	Filner	Klein (FL)
Capps	Frank (MA)	Kucinich
Capuano	Giffords	Lampson
Cardoza	Gilchrest	Langevin
Carnahan	Gillibrand	Larsen (WA)
Carney	Gonzalez	Larson (CT)
Castor	Gordon	Lee
Chandler	Green, Al	Levin
Clarke	Green, Gene	Lewis (GA)
Clay	Grijalva	Lipinski
Cleaver	Gutierrez	Loehsack
Clyburn	Hall (NY)	Lofgren, Zoe
Cohen	Hare	Lynch
Conyers	Harman	Mahoney (FL)
Cooper	Hastings (FL)	Maloney (NY)
Costa	Herseth Sandlin	Markey
Costello	Higgins	Marshall
Courtney	Hill	Matheson

Matsui	Perlmutter	Space
McCarthy (NY)	Peterson (MN)	Spratt
McCollum (MN)	Pomeroy	Stark
McDermott	Price (NC)	Stupak
McGovern	Rahall	Sutton
McIntyre	Rangel	Tanner
McNerney	Reyes	Tauscher
McNulty	Richardson	Taylor
Meek (FL)	Rodriguez	Thompson (CA)
Meeks (NY)	Ross	Thompson (MS)
Melancon	Rothman	Tierney
Michaud	Roybal-Allard	Tsongas
Miller (NC)	Rush	Udall (CO)
Miller, George	Ryan (OH)	Udall (NM)
Mitchell	Salazar	Van Hollen
Mollohan	Sanchez, Linda	Velázquez
Moore (KS)	T.	Visclosky
Moore (WI)	Sanchez, Loretta	Walz (MN)
Moran (VA)	Sarbanes	Wasserman
Murphy (CT)	Schakowsky	Schultz
Murphy, Patrick	Schiff	Waters
Murtha	Schwartz	Watson
Nadler	Scott (GA)	Watt
Napolitano	Scott (VA)	Waxman
Oberstar	Serrano	Weiner
Obey	Sestak	Welch (VT)
Olver	Shea-Porter	Wexler
Ortiz	Sherman	Wilson (OH)
Pallone	Shuler	Woolsey
Pascrell	Sires	Wu
Pastor	Skelton	Wynn
Paul	Slaughter	Yarmuth
Payne	Smith (WA)	
Pelosi	Snyder	

NOES—32

Aderholt	Fossella	LoBiondo
Brown (SC)	Fox	McHugh
Burton (IN)	Gallegly	Miller, Gary
Camp (MI)	Hall (TX)	Moran (KS)
Conaway	Hoekstra	Poe
Cubin	Johnson (IL)	Ramstad
Cuellar	King (NY)	Sensenbrenner
Davis, David	Kirk	Simpson
Davis, Tom	Kuhl (NY)	Weller
Duncan	LaHood	Wittman (VA)
Ehlers	Latham	

ANSWERED "PRESENT"—1

Porter

NOT VOTING—173

Ackerman	Emerson	Lungren, Daniel
Akin	Engel	E.
Alexander	English (PA)	Mack
Bachmann	Everett	Manzullo
Bachus	Fallin	Marchant
Barrett (SC)	Feeney	McCarthy (CA)
Bartlett (MD)	Ferguson	McCaul (TX)
Barton (TX)	Flake	McCotter
Biggert	Forbes	McCreary
Bilbray	Fortenberry	McHenry
Bilirakis	Franks (AZ)	McKeon
Bishop (UT)	Frelinghuysen	McMorris
Blackburn	Garrett (NJ)	Rodgers
Blunt	Gerlach	Mica
Boehner	Gingrey	Miller (FL)
Bonner	Gohmert	Miller (MI)
Bono Mack	Goode	Murphy, Tim
Boozman	Goodlatte	Musgrave
Boustany	Granger	Myrick
Brady (TX)	Graves	Neal (MA)
Broun (GA)	Hastings (WA)	Neugebauer
Brown, Corrine	Hayes	Nunes
Brown-Waite,	Heller	Pearce
Ginny	Hensarling	Pence
Buchanan	Herger	Peterson (PA)
Burgess	Hobson	Petri
Buyer	Honda	Pickering
Calvert	Hulshof	Pitts
Campbell (CA)	Hunter	Platts
Cannon	Inglis (SC)	Price (GA)
Cantor	Issa	Pryce (OH)
Capito	Johnson, Sam	Putnam
Carter	Jones (OH)	Radanovich
Castle	Jordan	Regula
Chabot	Keller	Rehberg
Coble	King (IA)	Reichert
Cole (OK)	Kingston	Renzi
Crenshaw	Kline (MN)	Reynolds
Culberson	Knollenberg	Rogers (AL)
Davis (KY)	Lamborn	Rogers (KY)
Deal (GA)	LaTourette	Rogers (MI)
Dent	Latta	Rohrabacher
Diaz-Balart, L.	Lewis (CA)	Ros-Lehtinen
Diaz-Balart, M.	Lewis (KY)	Roskam
Doolittle	Linder	Royce
Drake	Lowey	Ruppersberger
Dreier	Lucas	Ryan (WI)

Sali	Souder	Walden (OR)
Saxton	Stearns	Walsh (NY)
Schmidt	Sullivan	Wamp
Sessions	Tancredo	Weldon (FL)
Shadeeg	Terry	Westmoreland
Shays	Thornberry	Whitfield (KY)
Shimkus	Tiahrt	Wilson (NM)
Shuster	Tiberi	Wilson (SC)
Taylor	Towns	Wolf
Thompson (CA)	Turner	Young (AK)
Thompson (MS)	Upton	Young (FL)
Tierney	Walberg	
Tsongas		
Udall (CO)		
Udall (NM)		
Van Hollen		
Velázquez		
Visclosky		
Walz (MN)		
Wasserman		
Schultz		
Waters		
Watson		
Watt		
Waxman		
Weiner		
Welch (VT)		
Wexler		
Wilson (OH)		
Woolsey		
Wu		
Wynn		
Yarmuth		

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). Members are advised there are 4 minutes remaining to vote.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). Members are advised there are 2 minutes remaining on this vote.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). Members are advised there is 1 minute remaining on this vote.

□ 1423

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Stated for:

Ms. SOLIS. Madam Speaker, during rollcall vote No. 60 on H. Res. 982, Contempt on Miers and Bolten, I was unavoidably detained. Had I been present, I would have voted "yea."

The SPEAKER pro tempore. By the adoption of House Resolution 982, House Resolution 979 and House Resolution 980 stand adopted.

The text of House Resolution 979 is as follows:

H. RES. 979

Resolved, That pursuant to 2 U.S.C. 192 and 194, the Speaker of the House of Representatives shall certify the report of the Committee on the Judiciary, detailing the refusal of former White House Counsel Harriet Miers to appear before the Subcommittee on Commercial and Administrative Law as directed by subpoena, to the United States Attorney for the District of Columbia, to the end that Ms. Miers be proceeded against in the manner and form provided by law; and be it further

Resolved, That pursuant to 2 U.S.C. 192 and 194, the Speaker of the House of Representatives shall certify the report of the Committee on the Judiciary, detailing the refusal of former White House Counsel Harriet Miers to testify before the Subcommittee on Commercial and Administrative Law as directed by subpoena, to the United States Attorney for the District of Columbia, to the end that Ms. Miers be proceeded against in the manner and form provided by law; and be it further

Resolved, That pursuant to 2 U.S.C. 192 and 194, the Speaker of the House of Representatives shall certify the report of the Committee on the Judiciary, detailing the refusal of former White House Counsel Harriet Miers to produce documents to the Subcommittee on Commercial and Administrative Law as directed by subpoena, to the United States Attorney for the District of Columbia, to the end that Ms. Miers be proceeded against in the manner and form provided by law; and be it further

Resolved, That pursuant to 2 U.S.C. 192 and 194, the Speaker of the House of Representatives shall certify the report of the Committee on the Judiciary, detailing the refusal of White House Chief of Staff Joshua

Bolten to produce documents to the Committee on the Judiciary as directed by subpoena, to the United States Attorney for the District of Columbia, to the end that Mr. Bolten be proceeded against in the manner and form provided by law.

The text of House Resolution 980 is as follows:

H. RES. 980

Resolved, That the Chairman of the Committee on the Judiciary is authorized to initiate or intervene in judicial proceedings in any Federal court of competent jurisdiction, on behalf of the Committee on the Judiciary, to seek declaratory judgments affirming the duty of any individual to comply with any subpoena that is a subject of House Resolution 979 issued to such individual by the Committee as part of its investigation into the firing of certain United States Attorneys and related matters, and to seek appropriate ancillary relief, including injunctive relief.

SEC. 2. The Committee on the Judiciary shall report as soon as practicable to the House with respect to any judicial proceedings which it initiates or in which it intervenes pursuant to this resolution.

SEC. 3. The Office of General Counsel of the House of Representatives shall, at the authorization of the Speaker, represent the Committee on the Judiciary in any litigation pursuant to this resolution. In giving that authorization, the Speaker shall consult with the Bipartisan Legal Advisory Group established pursuant to clause 8 of Rule II.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, proceedings will resume on motions to suspend the rules previously postponed.

Votes will be taken in the following order:

H. Res. 966, by the yeas and nays;
H.R. 1834, by the yeas and nays;
S. 2571, by the yeas and nays;
H. Con. Res. 289, by the yeas and nays;
H.R. 4169, by the yeas and nays;
H. Res. 790, by the yeas and nays;
H. Res. 963, by the yeas and nays;
H. Res. 972, by the yeas and nays.

The first electronic vote will be conducted as a 15-minute vote. Remaining electronic votes will be conducted as 5-minute votes.

HONORING AFRICAN AMERICAN INVENTORS

The SPEAKER pro tempore. The unfinished business is the vote on the motion to suspend the rules and agree to the resolution, H. Res. 966, on which the yeas and nays were ordered.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentlewoman from Texas (Ms. EDDIE BERNICE JOHNSON) that the House suspend the rules and agree to the resolution, H. Res. 966.

The vote was taken by electronic device, and there were—yeas 387, nays 0, not voting 41, as follows: